IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 16391 of 2004

Between:

T.Pavitra, W/o Satyanarayana, aged 26 years,
R/o Thadivalasa Village, Ponduru Mandal, Srikakulam District

..... PETITIONER

AND

1 The Govt.of Andhra Pradesh by Secretary, Energy & Forest Department, Secretariat Buildings, Hyderabad
2 The Conservator of Forests, Visakhapatnam
3 The Divisional Forest Officer, Srikakulam
4 The Forest Range Officer, Srikakulam

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue Writ or Order or direction, more specially one in the nature of Writ of Mandamus or any other appropriate Writ directing the respondents to grant license to establish and run a Saw Mill under the name of Sri Pavitra Saw Mill at Dhamapuram Village, Ponduru Mandal, Srikakulam District in favour of the petitioner by declaring the inaction of the Respondents in not passing orders on the application dated 15-08-2003 made by the petitioner for grant of license to establish and run a Saw Mill after accepting the licensing fees as well as the renewal fees as arbitrary illegal and unconstitutional.

Counsel for the Petitioner:MS.I.MAAMU VANI

Counsel for the Respondent Nos.1 to 4: GP FOR FORESTS

The Court made the following :

O R D E R:

Heard both the counsel appearing for the parties.

The petitioner filed an application in From-I seeking for establishment of Sawmill before the Forest Range Officer, Srikakulam on 12.08.2003 enclosing a Challan No.15127, dated 12.08.2003 along with other required enclosures. The Forest Range Officer,Srikakulam also inspected the site proposed for installation of a new Sawmill and on 17.09.2003 he submitted a report to the Divisional Forest Officer, Srikakulam stating that the site location is situated at a distance of

15 kms. away from the nearest R.F/R.L. Dharmapuram. The 4th respondent after inspecting the site of the petitioner in Sy.No.115/9 and 10 of Dharmapuram village of Ponduru Mandal, recommended the case of the petitioner for issuance of fresh sawmill licence. The said application was not finally considered and the licence was not issued and it is still pending.

Under Rule 4 of the Andhra Pradesh Saw Mills (Regulation) Ruels, 1969 (for short 'the Rules') any person desiring to instal, erect or operate a sawmill, shall make an application in Form-I enclosing copies of documents, such as, title deeds or lease deed of the premises, copies of factory licence, sales tax registration, location sketch of the premises and statement indicating the sources of supply of round wood, species and quantity. Provided that where within a period of two months from the date of receipt of application by the Licensing Authority the applicant has not been granted a licence or any communication from Divisional Forest Officer is received, the applicant may proceed to establish and run a sawmill, but not so as to contravene any of the provisions of the Andhra Pradesh Forest Act, 1967 and the rules made there-under and after installation of sawmill the applicant shall inform licensing authority of such installation and obtain a licence.

In the instant case, the respondents have accepted that the petitioner has filed an application conforming to Rule 4(1) of the said Rules along with all the necessary enclosures and the Forest Range Officer, Srikakulam, also recommended the case of the petitioner. The petitioner further submits that in fact, one A.V.Narsimham who applied for licence on similar lines, was granted licence on 12.9.2003 whose sawmill is also nearer to the location of the petitioner's proposed sawmill. But the respondents without any justification whatsoever have not granted any licence to the petitioner.

The learned counsel appearing for the respondents submits that the Apex Court in W.P.No.202 of 1995, dated 16.11.2002 which was communicated through the Principal Chief Conservator of Forests, A.P. Hyderabad, dated 20.09.2003 directed not to issue permit for opening of any saw mills, Veneer or Plywood Industry without prior permission of the Central Empowered Committee. It is stated that without prior concurrence of the Central Empowered Committee, the licence cannot be granted to the petitioner and the request of the petitioner for grant of licnece to set up new sawmill was not rejected, but it is still pending and the proposals can be put-forth to the Central Empowered Committee by the Divisional Forest Officer, Srikakulam.

The third respondent-Divisional Forest Officer field the counter. But, curiously, no reasons have been stated as to why the application of the petitioner was not forwarded to the Central Empowered Committee by him.

As per the deeming provision, the petitioner has established a sawmill and operating the same in accordance with Rule 4(1) of the said Rules. Further, if there is any deviation or contravention of the Act and Rules, it is always open for the respondents to take action against the petitioner but the respondents cannot keep the application of the petitioner pending.

Having regard to the facts and circumstances of the case, the third respondent is directed to forward the application of the petitioner to the Central Empowered Committee and if ultimately the Central Empowered Committee refuses to grant permission to the petitioner, it is open for the respondents to reject such application and till then the *status quo* obtained as on today shall continue.

With the above directions, the Writ Petition is disposed of. No costs.

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V.ESWARAIAH, J

Dated:28-03-2005

Note:

CC within two days.

B/o

CCM

To

1 The Secretary,Govt.of Andhra Pradesh Energy & Forest Department, Secretariat Buildings, Hyderabad
2 The Conservator of Forests, Visakhapatnam
3 The Divisional Forest Officer, Srikakulam
4 The Forest Range Officer, Srikakulam

5 Two CCs to the G.P. for Forests, High Court Buildings,

A.P.,Hyderabad(OUT)

6 Two CD copies.